

(4) establish special regulations for the conservation of the gray wolf in Minnesota; and (5) designate Critical Habitat for the gray wolf in Michigan (Isle Royale National Park only) and Minnesota, pursuant to Section 7 of the Act. With respect to the wolf in Minnesota, these measures are deemed necessary and advisable to provide for the future well-being of the species. Although an increased legal take of wolves committing depredations on domestic animals would be authorized, this take could be intended to ameliorate present conflict between the wolf and human interests. Such conflict would hinder conservation efforts and thus work against the long-term welfare of the wolf. A legal take is considered the only practical means by which depredations can be handled and the current problems relieved.

DATES: Relevant comments on this proposal, received no later than August 8, 1977, will be considered by the Director.

ADDRESS: Comments, preferably in triplicate, should be sent to the Director (FWS/OES), Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240.

Comments received will be available for public inspection during normal business hours at the Service's Office of Endangered Species, Suite 1100, 1612 K Street, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Mr. Keith M. Schreiner, Associate Director for Federal Assistance, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240 (202/343-4646).

SUPPLEMENTARY INFORMATION:

BACKGROUND

The gray wolf formerly occurred in most of the conterminous United States and Mexico. Because of widespread habitat destruction and human persecution, the species now occupies only a small part of its original range in these regions. Four subspecies of the gray wolf now are listed as Endangered pursuant to the Act: the Mexican wolf (*Canis lupus baileyi*), of Mexico and the southwestern United States; the northern Rocky Mountain wolf (*C. l. irremotus*), possibly still found in parts of Wyoming, Montana, and Idaho; the eastern timber wolf (*C. l. lycaon*), now restricted to the northern Great Lakes region; and the Texas gray wolf (*C. l. monstrabilis*), formerly of Texas and Mexico and now probably extinct. This listing arrangement has not been satisfactory because the taxonomy of wolves is out of date, wolves may wander outside of recognized subspecific boundaries, and some wolves from unlisted subspecies may occur in certain parts of the lower 48 States. In any case, the Service wishes to recognize that the entire species *Canis lupus* is Endangered or Threatened to the south of Canada, and considers that this matter can be handled most conveniently by listing only the species name.

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 17]

ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Proposed Reclassification of the Gray Wolf in the United States and Mexico, With Proposed Critical Habitat in Michigan and Minnesota

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Proposed rulemaking.

SUMMARY: The Director, U.S. Fish and Wildlife Service (hereinafter, the Director and the Service, respectively), hereby issues a proposed rulemaking, pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531-1543, 87 Stat. 884; hereinafter the Act), which would (1) delete the following subspecific names from the List of Endangered and Threatened Wildlife: Mexican wolf (*Canis lupus baileyi*), northern Rocky Mountain wolf (*C. l. irremotus*), eastern timber wolf (*C. l. lycaon*), and Texas gray wolf (*C. l. monstrabilis*); (2) list the entire species gray wolf (*Canis lupus*) as Endangered in Mexico and throughout the 48 conterminous States of the United States, except Minnesota; (3) list the species *Canis lupus* as Threatened in Minnesota;

This proposal, if finalized, also would clarify the status of wolves within the designated range of *C. l. irremotus* and *C. l. lycaon* in Canada. These two subspecies were originally listed as Endangered at a time when there were two separate lists of Endangered species, one for foreign wildlife and one for native wildlife. Both subspecies were added only to the latter list, a published in the FEDERAL REGISTER of January 4, 1974 (39 FR 1171-1176), and thus for legal purposes were considered to be Endangered only within the United States. Subsequently, the two two lists were combined into one List of Endangered and Threatened Wildlife, covering both native and foreign species, as published on October 27, 1976 (41 FR 47180-47198). Examination of this list may give the impression that *C. l. irremotus* and *C. l. lycaon* are considered Endangered over their entire ranges, including Canadian areas. The present proposal would clearly indicate that the gray wolf is listed everywhere to the south of the Canadian border, but nowhere to the north.

Most current interest in the gray wolf centers on the eastern timber wolf, especially in Minnesota. As delineated by recent systematic sources, the original range of the subspecies *C. l. lycaon* included most of the region from Georgia to Maine, and between the Atlantic and the Great Plains. At present, however, the only substantial gray wolf population remaining in this region is in northern Minnesota. There also is a group on Isle Royale in Lake Superior, and possibly a few scattered individuals in northern Michigan and Wisconsin.

The eastern timber wolf was listed as Endangered in 1967, at a time when no Threatened category had been established by Federal legislation. Over the last decade the wolf continued to survive in northern Minnesota, and it became apparent that the species was not in immediate danger of being extirpated in the State. Numbers have fluctuated, but seem to have increased in some areas, and there has been an overall increase in range. Some wolves have entered areas with relatively extensive human settlement and made depredations on domestic animals. Many people have expressed concern about such depredations, and about the possibility that wolves could be detrimental to some deer herds in Minnesota, which have been undergoing a general decline because of several factors including habitat deterioration.

In a letter dated October 4, 1974, the Minnesota Department of Natural Resources petitioned the Service to exclude Minnesota from the range over which the eastern timber wolf is considered Endangered. In response, the Service issued a notice of review in the FEDERAL REGISTER of November 21, 1974 (39 FR 40877). Extensive public comment was received on this notice, mainly opposition from persons who were concerned that removal of the wolf from Endangered status would subject the species to excessive killing by man. Some support for delisting the wolf came from persons who felt that the continued total protec-

tion of the Endangered classification would result in serious depredations by the wolf on livestock and game.

Further measures by the Service were withheld pending formulation of recommendations by the Eastern Timber Wolf Recovery Team. This team, one of many appointed by the Service to develop Recovery Plans for Endangered and Threatened species, consists of authorities representing the U.S. Fish and Wildlife Service, Forest Service, and National Park Service; and the Minnesota, Michigan, and Wisconsin Departments of Natural Resources. During 1975 the team drafted a Recovery Plan for the wolf, which included recommendations on the classification and management of the species in Minnesota. Because of the complexity of the issue, the draft was subjected to a lengthy review process and then was revised by the team. In late 1976 the team submitted a new draft containing the following recommendations.

1. The eastern timber wolf would be reclassified as Threatened in Minnesota, but would remain as Endangered in other parts of its range.

2. For purposes of wolf management in Minnesota, the State would be divided into the five zones delineated below in proposed § 17.40(d) (1).

3. In zones 1, 2, and 3, which form the primary range of the wolf, the species would be given total protection, at least for the first year of the plan, except that in rare, specific documented cases of livestock depredation wolves could be taken in zones 2 and 3. After one year of monitoring, the situation would be reviewed to see if modification of the total protection in zones 2 and 3 was warranted.

4. In zone 4, which is the peripheral range of the wolf, the species would be open to the degree of regulated hunting and trapping necessary to maintain an optimum population of one wolf per 50 square miles. During the first year of the plan the allowed take would be 100 wolves, with assumed additional kills of 60 wolves in damage control programs and another 60 by illegal means. Taking was said to be advisable to prevent wolf populations from increasing to the point at which conflicts with human interests would be so intensive as to be detrimental to the survival and recovery of the species.

5. In zone 5, which has no regular wolf populations, taking would be restricted to authorized government employees only.

After reviewing the draft Recovery Plan, and other information, the Service has decided to accept the above recommendations, except that taking in zone 4 would be restricted to authorized Federal and State agents, and would be allowed only in response to specific, confirmed complaints of depredation on domestic animals. For the time being, the Service sees no justification for allowing the take of non-depredating wolves. The Service could, however, continue to monitor the situation, as recommended by the team, and would propose new regulations whenever warranted.

SUMMARY OF FACTORS AFFECTING THE SPECIES

As defined in Section 3 of the Act, term "species" includes any subspecies fish or wildlife or plants and any other group of fish or wildlife of the same species or smaller taxa in common spatial arrangement that interbreed when mature. For purposes of this rulemaking the gray wolf (*Canis lupus*) group in Mexico and the 48 conterminous States of the United States, other than Minnesota, is being considered as one "species", and the gray wolf group in Minnesota is being considered as another "species".

Section 4(a) of the Act states that Secretary of the Interior may determine a "species" to be Endangered or Threatened because of any of five factors. The factors, and their application to the gray wolf in Minnesota, and to the gray wolf in the other 48 conterminous States and in Mexico, are listed below.

1. *The present or threatened destruction, modification, or curtailment of habitat or range.* The gray wolf once had a range that included most of Mexico and the 48 conterminous States of the United States. The species now occurs only a small fraction of this range, and is very rare in most places where it does exist. Perhaps fewer than 200 wolves survive in Mexico, and these are widely scattered and subject to intensive human pressure. In the southwestern United States the wolf probably is present only as an occasional wanderer near the Mexican border. In the northwestern United States the wolf is restricted mainly to remote parts of the Rocky Mountains, though some individuals may wander from this region, or from Canada, into other areas. In the eastern half of the United States the gray wolf has been totally eliminated by man, except in the upper Great Lakes region. Here, there is a group on Isle Royale, a possibly a few in northern Michigan and Wisconsin. The only major population of the gray wolf remaining anywhere in the 48 conterminous States is in northern Minnesota. This population, while small compared to the original number and range of the gray wolf in the lower 48 States, has not itself undergone a significant decline since about 1900. Indeed within the last decade there appears to have been a numerical increase in some areas, and an overall range increase. The relatively remote primary habitat of the population, which is composed in large part of protected public lands, along with the continuity of the population with other populations in Canada, has contributed to the survival of the wolf in Minnesota. There appear to be no serious problems that could result in the immediate extirpation of the species in this area, and thus the population would not seem to be Endangered as defined by the Act. On the other hand, the Minnesota population does represent the last significant element of a species that once occupied a vastly larger range in the lower 48 States, and long term trends

may be working against the wolf. To quote the Recovery Plan, "Future circumstances are unpredictable and those that now exist could change drastically. For example, widespread industrialization, mineral exploitation, and general development could threaten much of the wolf's remaining range, making regulation increasingly significant to the populations left. Additional roads, railroads, power lines, mines and tourist facilities could further carve up much of northern Minnesota. This would disrupt the natural repopulation of depleted areas by wolves and promote higher human densities which would compete with wolves for their wild prey." Moreover, in recent years there has been a decline in deer, the main prey species, in parts of the primary range of the wolf. This decline has resulted primarily from forest maturation and severe winter weather. Wolf numbers have declined accordingly in some of these areas. In contrast, wolves have increased in their peripheral range where they are more likely to come into conflict with human interests and thus stimulate action against them. These various problems would seem to warrant the maintenance of a Threatened classification for the wolf in Minnesota.

2. *Overutilization for commercial, sporting, scientific, or educational purposes.* Direct killing by man, including large-scale commercial and sport taking, has been the major direct factor in the decline of wolves in the conterminous United States and Mexico. Wolves still are regularly shot, especially when they appear in settled areas that are not part of their regular range. Illegal killing is a problem in Minnesota and other areas where the wolf still occurs.

3. *Disease or predation.* Not applicable.

4. *The inadequacy of existing regulatory mechanisms.* There still are some places in the lower 48 States, such as Washington and North Dakota, where wolves may occur and where they are not under Federal protection. Moreover, because of the confusing taxonomy of wolf subspecies, and because wolves may wander across recognized subspecific boundaries, difficult law enforcement problems may arise. In Minnesota, wolves are totally protected under the Act, but this total protection may actually be working against the species. By prohibiting the killing of wolves, even those that may be attacking livestock and pets, current regulations may be creating an adverse public attitude toward the whole species, and could bring about large-scale, uncontrollable killing of wolves.

5. *Other natural or manmade factors affecting its continued existence.* None in addition to those discussed above.

CRITICAL HABITAT

Section 7 of the Act requires Federal agencies, and only Federal agencies, to insure that actions authorized, funded, or carried out by them do not adversely affect the Critical Habitat of Endangered or Threatened species. The Recovery Team has described zones 1, 2, and 3

in Minnesota, and Isle Royale National Park, Michigan, as "critical areas" for the wolf. These areas provide the space for normal growth and movement of established pack units and would supply sufficient food and cover for the assured survival of the species. The Service considers that these areas qualify for proposal as Critical Habitat, pursuant to Section 7, and that Federal agencies should evaluate their actions affecting these areas relative to the welfare of the wolf.

EFFECTS OF THE RULEMAKING

With respect to the gray wolf in the 48 conterminous States of the United States, except Minnesota, and in Mexico, all prohibitions of Section 9(a)(1) of the Act, as implemented by 50 CFR 17.21 would apply. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale in interstate or foreign commerce this species. It also would be illegal to possess, sell, deliver, carry, transport, or ship any such wildlife which was illegally taken. Certain exceptions would apply to agents of the Service and State conservation agencies. Permits for scientific purposes or for the enhancement of propagation or survival would be available in accordance with 50 CFR 17.22. Economic hardship permits would be available under 50 CFR 17.23. For practical purposes these measures already are in effect since nearly all wolves that regularly occur in the region in question are currently listed as Endangered. The proposed rulemaking would extend Endangered status to those few wolves that may be in the region that are not already listed, and would simplify law enforcement and conservation measures.

With respect to the gray wolf in Minnesota, which would be listed as Threatened, a special rule would be promulgated which would apply provisions similar to those of 50 CFR 17.31, and an rare additional provision for depredation control. The prohibitions of 50 CFR 17.31 are essentially the same as those for Endangered species, except that "any employee or agent of the Service, of the National Marine Fisheries Service, or of a State conservation agency which is operating under a Cooperative Agreement with the Service or with the National Marine Fisheries Service, in accordance with Section 6(c) of the Act, who is designated by his agency for such purposes, may, when acting in the course of his official duties, take any threatened wildlife to carry out scientific research or conservation programs." In accordance with 50 CFR 17.32, permits for Threatened wildlife are available for scientific purposes, enhancement of propagation or survival, economic hardship, zoological exhibitions, educational purposes, or special purposes consistent with the purposes of the Act.

The provisions for predator control would state that wolves could be taken

by authorized Federal or State employees in zones 2, 3, 4, and 5, if such wolves committed significant depredations on lawfully present domestic animals. Few, if any, of these wolves would be taken in zones 2 and 3 which have practically no livestock, and nearly all would be taken in zone 4. Essentially then, the wolf population in zones 1, 2, and 3 would not be affected by the depredation control activity. The population in zone 4 might be held below biological potential, but would continue to exist in reasonable numbers. The control of depredating wolves in zone 4 would reduce conflicts with human interests and should create a more favorable public attitude that would be of overall benefit to the wolf.

The effects of Critical Habitat determination involve Federal agencies. In accordance with Section 7 of the Act, such agencies, and only such agencies, are required to insure that actions authorized, funded, or carried out by them do not adversely affect the Critical Habitat of Endangered or Threatened species. The proposed designation of Critical Habitat for the gray wolf in Minnesota, as delineated below, points out areas where this responsibility would apply. This proposal would not prohibit any particular actions, and it is likely that many kinds of Federal actions involving the areas in question would not be expected to be detrimental to the wolf. For more information, please consult the "Guidelines to Assist Federal Agencies in Complying with Section 7 of the Endangered Species Act of 1973," as prepared by the Fish and Wildlife Service and National Marine Fisheries Service.

NATIONAL ENVIRONMENTAL POLICY ACT

An environmental assessment has been prepared in conjunction with this proposal. It is on file in the Service's Office of Endangered Species, 1612 K Street NW., Washington, D.C. 20240, and may be examined during regular business hours. A determination will be made at the time of final rulemaking as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969.

PUBLIC COMMENTS SOLICITED

The Director intends that the rules finally adopted be as effective as possible in conserving the gray wolf and in delineating its Critical Habitat in Michigan and Minnesota. The Director, therefore, desires to obtain the comments and suggestions of the public, other concerned governmental agencies, the scientific community, or any other interested party, on these proposed rules. Final promulgation of regulations will take into consideration the comments received by the Director. Such comments and any additional information received may lead the Director to adopt final regulations that differ from this proposal.

PROPOSED RULES

SUBMITTAL OF WRITTEN COMMENTS

Interested persons may participate in this rulemaking by submitting written comments, preferably in triplicate, to the Director (FWS/OES), Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240. All relevant comments received no later than August 8, 1977, will be considered. The Service will attempt to acknowledge receipt of comments, but substantive responses to individual comments may not be provided. Comments received will be available for public inspection during normal business hours at the Service's Office of Endangered Species, Suit 1100, 1612 K Street NW., Washington, D.C.

This proposed rulemaking is issued under the authority contained in the Endangered Species Act of 1973 (16 U.S.C. 1531-1543; 87 Stat. 884), and was prepared by Ronald M. Nowak, Office of Endangered Species.

§ 17.11 Endangered and threatened wildlife.

NOTE.—The Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: May 19, 1977.

LYNN A. GREENWALT,
Director, Fish and Wildlife Service.

Accordingly, Part 17, Subparts B, D, and I, Title 50 of the Code of Federal Regulations, are amended as set forth below.

1. Section 17.11 is amended by deleting the Mexican wolf (*Canis lupus baileyi*), northern Rocky Mountain wolf (*Canis lupus irremotus*), eastern timber wolf (*Canis lupus lycaon*), and Texas gray wolf (*Canis lupus monstrabilis*) from the List of Endangered and Threatened Wildlife, and by adding the gray wolf (*Canis lupus*) to the List as indicated below:

Species			Range				
Common name	Scientific name	Population	Known distribution	Portion of range where threatened or endangered	Status	When listed	Special rules
Mammals: Wolf, gray.	<i>Canis lupus</i> .	United States (48 conterminous States, other than Minnesota), Mexico.	Arizona, Idaho, Michigan, Montana, New Mexico, North Dakota, Oregon, Texas, Washington, Wisconsin, Wyoming, Mexico.	Entire.....	E	NA
Do.....do.....	Minnesota.....	Northern Minnesota.....	do.....	T	17.40(d)	

2. Section 17.40 is amended by adding the following paragraph (d):

§ 17.40 Special rules—Mammals.

(d) Gray wolf (*Canis lupus*) in Minnesota.—(1) Zones. For purposes of these regulations, the State of Minnesota is divided into the following five zones.

ZONE 1—4,462 SQUARE MILES

Beginning at the point of intersection of United States and Canadian boundaries in Section 22, Township 71 north, Range 22 West, in Rainy Lake, then proceeding along the west side of Sections 22, 27, and 34 in said township to the east side of Black Bay Narrows in Black Bay; thence proceeding along the North and East shoreline of Black Bay to the Black Bay Portage to Kabetogama Lake; thence southeasterly along the Black Bay Portage to Kabetogama Lake; thence southeasterly along the southern shoreline of Kabetogama Lake to Moosehorn Point—the junction of County Route 122 with Kabetogama Lake; thence southerly along County Route 122 to the junction with State Highway 53; thence southeasterly along State Highway 53 to the junction with County Route 765; thence easterly along County Route 765 to the junction with Kabetogama Lake in Ash River Bay; thence along the south boundary of Section 33 in Township 69 North, Range 19 West, to the junction with the Moose River; thence southeasterly along the Moose River to Moose Lake; thence along the western shore of Moose Lake to the river between Moose Lake and Long Lake; thence along the said river to Long Lake; thence along the east shore of Long Lake to the

drainage on the southeast side of Long Lake in NE¼, Section 18, Township 67 North, Range 18 West; thence along the said drainage southeasterly and subsequently northeasterly to Marion Lake, the drainage being in Section 17 and 18, Township 67 North, Range 18 West; thence along the west shoreline of Marion Lake proceeding southeasterly to the Moose Creek; thence along Moose Creek to Flap Creek; thence southeasterly along Flap Creek to the Vermillion River; thence southerly along the Vermillion River to Vermillion Lake; thence along the Superior National Forest boundary in a southeasterly direction through Vermillion Lake passing these points: Oak Narrows, Muskrat Channel, South of Pine Island, to Hoodo Point and the junction with County Route 697; thence southeasterly on County Route 697 to the junction with State Highway 169; thence easterly along State Highway 169 to the junction with State Highway 1; thence easterly along State Highway 1 to the junction with the Erie Railroad tracks at Murphy City; thence easterly along the Erie Railroad tracks to the junction with Lake Superior at Taconite Harbor; thence northeasterly along the North Shore of Lake Superior to the Canadian Border; thence westerly along the Canadian border to the point of beginning in Rainy Lake.

ZONE 2—1,864 SQUARE MILES

Beginning at the intersection of the Erie Mining Company Railroad and State Highway 1 (Murphy City); thence southeasterly on State Highway 1 to the junction with County Road 4; thence southwesterly on County Road 4 to the State Snowmobile Trail (formerly the Alger-Smith Railroad); thence southwesterly along the Snowmobile Trail

to the junction with Reserve Mining Company Railroad; thence northwesterly along the Railroad to Forest Road 107; thence westerly along Forest Road 107 to Forest Road 203; thence westerly along Forest Road 203 to the junction with County Route 2; thence in a northerly direction on County Route 2 to the junction with Forest Road 122; thence in a westerly direction along Forest Road 122 to the junction with the Duluth, Missable and Iron Range Railroad; thence in a southwesterly direction along the said railroad tracks to the junction with County Route 14; thence in a northwesterly direction along County Route 14 to the junction with County Route 55; thence in a westerly direction along County Route 55 to a junction with County Route 44; thence in a southerly direction along County Route 44 to the junction with County Route 266; thence in a southeasterly direction along County Route 266 and subsequently in a westerly direction to the junction with County Road 44; thence in a northerly direction on County Road 44 to the junction with Township Road 2815; thence westerly along Township Road 2815 to Alden Lake; thence northwesterly across Alden Lake to the inlet of the Cloquet River; thence northerly along the Cloquet River to the junction with Carrol Trail—State Forestry Road; thence west along the Carrol Trail to the junction with County Route 4 and County Routes 49; thence west along County Route 49 to the junction with the Duluth, Winnipeg and Pacific Railroad; thence in a northerly direction along said Railroad to the junction with the Whiteface River; thence in a northeasterly direction along the Whiteface River to the Whiteface Reservoir; thence along the western shore of the Whiteface Reservoir to the junction with County Route 340; thence north along County Route 340 to the junction with County Route 16; thence east along County Route 16 to the junction with County Route 346; thence in a northerly direction along County Route 346 to the junction with County Route 569; thence along County Route 569 to the junction with County Route 565; thence in a westerly direction along County Route 565 to the junction with County Route 110; thence in a westerly direction along County Route 110 to the junction with County Route 100; thence in a north and subsequent west direction along County Route 100 to the junction with State Highway 135; thence in a northerly direction along State Highway 135 to the junction with State Highway 169 at Tower; thence in an easterly direction along the southern boundary of Zone 1 to the point of beginning of Zone 2 at the junction of the Erie Railroad Tracks and State Highway 1.

ZONE 3—3,501 SQUARE MILES

Beginning at the junction of State Highway 11 and State Highway 65; thence southeasterly along State Highway 65 to the junction with State Highway 1; thence westerly along State Highway 1 to the junction with State Highway 72; thence north along State Highway 72 to the junction with an unnumbered township road beginning in the northeast corner of Section 25, Township 155 North, Range 31 West; thence westerly along the said road for approximately seven (7) miles to the junction with SFR 95; thence westerly along SFR 95 and continuing west through the southern boundary of Sections 36 through 31, Township 155 North, Range 33 West, through Sections 36 through 31, Township 155 North, Range 34 West, through Sec-

tions 36 through 31, Township 155 North, Range 35 West, through Sections 36 and 35, Township 155 North, Range 36 West, to the junction with State Highway 89; thence northwesterly along State Highway 89 to the junction with County Route 44; thence northerly along County Route 44 to the junction with County Route 704; thence northerly along County Route 704 to the junction with SFR 49; thence northerly along SFR 49 to the junction with SFR 57; thence easterly along SFR 57 to the junction with SFR 63; thence south along SFR 63 to the junction with SFR 70; thence easterly along SFR 70 to the junction with County Route 87; thence easterly along County Route 87 to the junction with County Route 1; thence south along County Route 1 to the junction with County Route 16; thence easterly along County Route 16 to the junction with State Highway 72; thence south on State Highway 72 to the junction with a gravel road (unnumbered County District Road) on the north side of Section 31, Township 158 North, Range 30 West; thence east on said District Road to the junction with SFR 62; thence easterly on SFR 62 to the junction with SFR 175; thence south on SFR 175 to the junction with County Route 101; thence easterly on County Route 101 to the junction with County Route 11; thence easterly on County Route 11 to the junction with State Highway 11; thence easterly on State Highway 11 to the junction with State Highway 65, the point of beginning.

ZONE 4—20,901 SQUARE MILES

Excluding Zones 1, 2, and 3, all that part of Minnesota north and east of a line beginning on State Trunk Highway 48 at the eastern boundary of the state; thence westerly along Highway 48 to Interstate Highway 35; thence northerly on I-35 to State Highway 23, thence west one-half mile on Highway 23 to State Trunk Highway 18; thence westerly along Highway 18 to State Trunk Highway 65, thence northerly on Highway 65 to State Trunk Highway 210; thence westerly along Highway 210 to State Trunk Highway 6; thence northerly on State Trunk Highway 6 to Emily; thence westerly along County State Aid Highway (CSAH) 1, Crow Wing County, to CSAH 2, Cass County; thence westerly along CSAH 2 to Pine River; thence northwesterly along State Trunk Highway 371 to Backus; thence westerly along State Trunk Highway 87 to U.S. Highway 71; thence northerly along U.S. 71 to State Trunk Highway 200; thence northwesterly along Highway 200 to County State Aid Highway (CSAH) 2, Clearwater County; thence northerly along CSAH 2 to Shevlin; thence along U.S. Highway 2 to Bagley; thence northerly along State Trunk Highway 92 to Gully; thence northerly along CSAH 2, Polk County, to CSAH 27, Pennington County; thence along CSAH 27 to State Trunk Highway 1; thence easterly on Highway 1 to CSAH 28, Pennington County; thence northerly along CSAH 28 to CSAH 54, Marshall County; thence northerly along CSAH 54 to Grygla; thence west and northerly along Highway 89 to Roseau; thence northerly along State Trunk Highway 310 to the Canadian border.

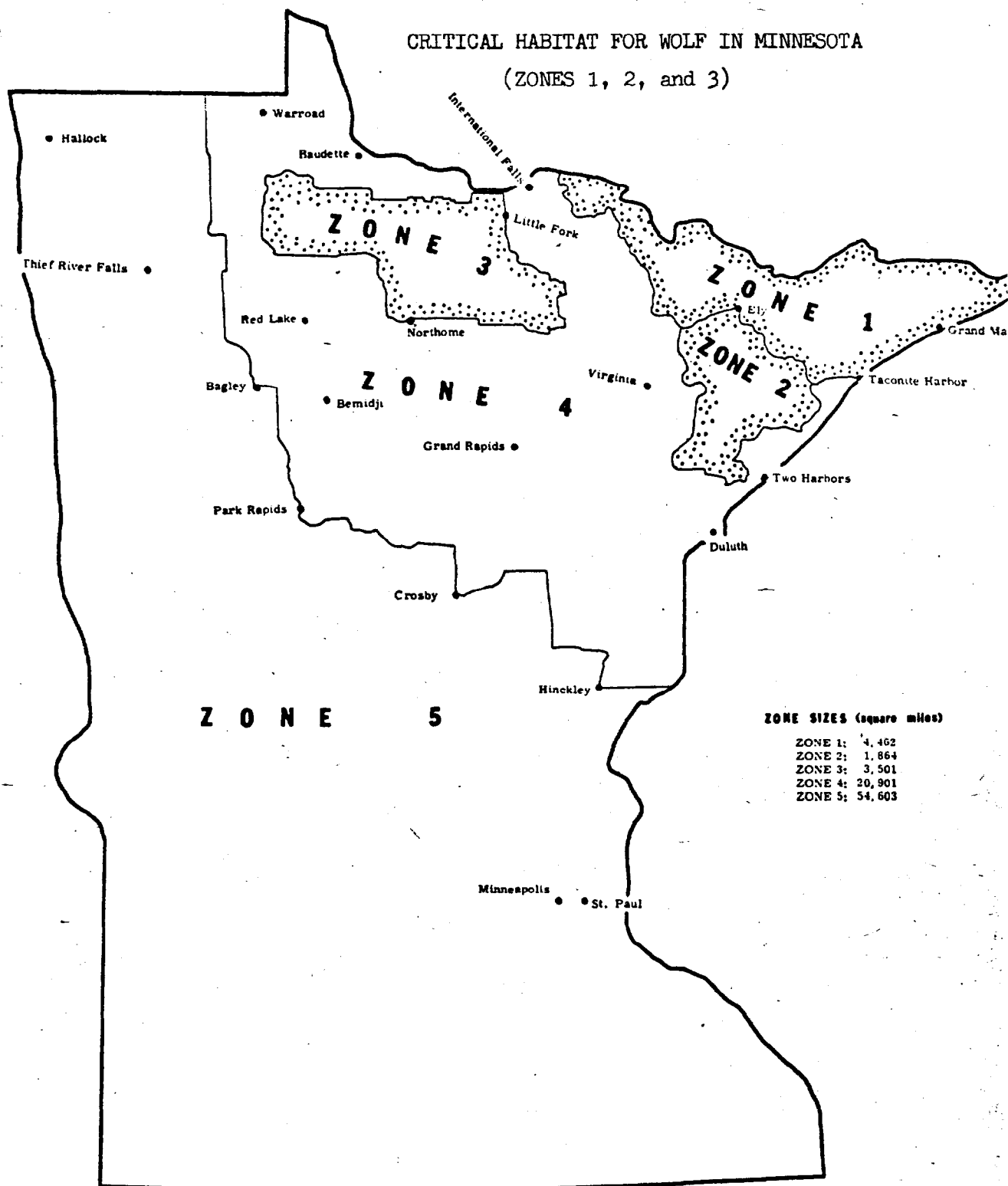
ZONE 5—54,603 SQUARE MILES

All that part of Minnesota south and west of the line described as the south and west border of Zone 4.

PROPOSED RULES

CRITICAL HABITAT FOR WOLF IN MINNESOTA

(ZONES 1, 2, and 3)



(2) *Prohibitions.* The following prohibitions apply to the gray wolf in Minnesota.

(i) *Taking.* Except as provided in this paragraph (d) (2) (i) of this section, no person may take a gray wolf in Minnesota.

(A) Any person may take a gray wolf in Minnesota in defense of his own life or the lives of others.

(B) Any employee or agent of the Service, any other Federal land management agency, or the Minnesota Department of Natural Resources, who is designated by his agency for such purposes, may, when acting in the course of his official duties, take a gray wolf in Minnesota without a permit if such action is necessary to:

(1) Aid a sick, injured, or orphaned specimen; or

(2) Dispose of a dead specimen; or

(3) Salvage a dead specimen which may be useful for scientific study.

(4) Furthermore, such designated employees or agents of the Service or the Minnesota Department of Natural Resources may take a gray wolf without a permit in Minnesota if such action is necessary to remove from zone 2, 3, 4, or 5, as delineated in paragraph (d) (3) (1) of this section, a gray wolf committing significant depredations on lawfully present domestic animals, but only if the taking is done in a humane manner.

(C) Any taking pursuant to paragraph (d) (2) (i) (A) and (B) of this section must be reported in writing to the United States Fish and Wildlife Service, Division of Law Enforcement, P.O. Box 19183, Washington, D.C. 20036, within 5 days. The specimen may only be retained, disposed of, or salvaged in accordance with directions from the Service.

(D) Any employee or agent of the Service or the Minnesota Department of Natural Resources when operating under a Cooperative Agreement with the Service in accordance with section 6(c) of the Act, who is designated by his agency for such purposes, may, when acting in the course of his official duties, take a gray wolf in Minnesota to carry out scientific research or conservation programs.

(ii) *Unlawfully taken wolves.* No person may possess, sell, deliver, carry, transport, or ship, by any means whatsoever, a gray wolf taken unlawfully in Minnesota.

(iii) *Import or export.* Except as may be authorized by a permit issued under authority of § 17.32, no person may import or export any Minnesota gray wolf.

(iv) *Commercial transactions.* Except as may be authorized by a permit issued under § 17.32, no person may deliver, receive, carry, transport, ship, sell, or offer to sell in interstate or foreign commerce, by any means whatsoever, and in the course of a commercial activity, any Minnesota gray wolf.

(3) *Permits.* All permits available under § 17.32 (General Permits—Threatened wildlife) are available with regard to the gray wolf in Minnesota. All the terms and provisions of § 17.32 apply to such permits issued under the authority of this paragraph (d) (3).

3. Section 17.95 is amended by adding the following paragraph (a) (5).

§ 17.95 Critical habitat—fish and wildlife.

(a) *Mammals.* * * *

(5) *Gray wolf.* (i) The following areas (exclusive of those existing manmade structures and settlements which are not necessary to the survival or recovery of the species) are Critical Habitat for the gray wolf (*Canis lupus*).

Michigan. Isle Royale National Park.

Minnesota. Areas of land, water, and airspace in Beltrami, Cook, Itasca, Koochiching Lake, Lake of the Woods, Roseau, and St. Louis counties, with boundaries (4th and 5th Principal Meridians) identical to those of zones 1, 2, and 3, as delineated in 50 CFR 17.40 (d) (1).

(ii) Pursuant to Section 7 of the Act all Federal agencies must take such action as is necessary to insure that actions authorized, funded, or carried out by them do not result in the destruction or modification of these Critical Habitat areas.

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